

1, 1975, and was approved by the Assistant Secretary on April 24, 1975.

(c) State occupational safety and health personnel were retrained during March-May 1973.

(d) Training sessions for public employers and employees were held during April-June 1973.

(e) The Minnesota enabling legislation became effective on August 1, 1973. In addition, amendments to the legislation which concerned employee discrimination complaints and violations became effective on July 1, 1975, and a second amendment concerning the definition of a serious violation, posting of citations and penalties, right of employees to contest a citation and penalty, and furnishing copies of citations and notices of penalties to employer representatives and, in the case of a fatality, to the next of kin or a designated representative, became effective on August 1, 1975.

(f) Regulations on variances were promulgated on February 20, 1974, and were approved with assurances by the Assistant Secretary on August 31, 1976.

(g) The management information system became operable in August 1973.

(h) Coverage and enforcement of agricultural standards commenced on July 1, 1975.

(i) The Rules of Procedure of the Minnesota Occupational Safety and Health Review Commission, chapter 20, Minnesota Occupational Safety and Health Code, and regulations concerning inspections, citations, and proposed penalties, chapter 21, Minnesota Occupational Safety and Health Code, were approved by the Assistant Secretary on August 31, 1976.

(j) The downward revision of the projected increase in personnel for fiscal year 1976 due to a lesser than anticipated increase of funding by the Minnesota legislature, was approved by the Assistant Secretary as meeting current required staffing on August 31, 1976.

(k) The State poster approved on March 25, 1975 (40 FR 13211) which was revised in response to legislative amendments described above, to provide that citations and notices of penalties must be posted at or near the place of the alleged violation for 15 days or until the violation is corrected, whichever is later, and which lists ad-

ditional Minnesota area offices, was approved by the Assistant Secretary on August 31, 1976.

(l) In accordance with §1902.34 of this chapter, the Minnesota occupational safety and health plan was certified, effective September 28, 1976, as having completed all developmental steps specified in the plan as approved on May 29, 1973, on or before June 30, 1976.

[40 FR 13212, Mar. 25, 1975, as amended at 40 FR 18996, May 1, 1975. Redesignated at 50 FR 30831, July 30, 1985]

§ 1952.203 Compliance staffing benchmarks.

Under the terms of the 1978 Court Order in *AFL-CIO v. Marshall*, compliance staffing levels (benchmarks) necessary for a "fully effective" enforcement program were required to be established for each State operating an approved State plan. In September 1984 Minnesota, in conjunction with OSHA, completed a reassessment of the levels initially established in 1980 and proposed revised compliance staffing benchmarks of 31 safety and 12 health compliance officers. After opportunity for public comment and service on the AFL-CIO, the Assistant Secretary approved these revised staffing requirements on July 30, 1985.

[50 FR 30832, July 30, 1985]

§ 1952.204 Final approval determination.

(a) In accordance with section 18(e) of the Act and procedures in 29 CFR part 1902, and after determination that the State met the "fully effective" compliance staffing benchmarks as revised in 1984 in response to a Court Order in *AFL-CIO v. Marshall* (CA 74-406), and was satisfactorily providing reports to OSHA through participation in the Federal-State Unified Management Information System, the Assistant Secretary evaluated actual operations under the Minnesota State plan for a period of at least one year following certification of completion of developmental steps (41 FR 42659). Based on the 18(e) Evaluation Report for the period of October 1982 through March 1984, and after opportunity for public comment, the Assistant Secretary determined that in operation the State of Minnesota's occupational safety and

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health program is at least as effective as the Federal program in providing safe and healthful employment and places of employment and meets the criteria for final State plan approval in section 18(e) of the Act and implementing regulations at 29 CFR part 1902. Accordingly, the Minnesota plan was granted final approval, and concurrent Federal enforcement authority was relinquished under section 18(e) of the Act effective July 30, 1985.

(b) Except as otherwise noted, the plan which has received final approval covers all activities of employers and all places of employment in Minnesota. The plan does not cover private sector offshore maritime employment on the navigable waters of the United States; employment at the Twin Cities Army Ammunition Plant; Federal government employers and employees; the U.S. Postal Service (USPS), including USPS employees, and contract employees and contractor-operated facilities engaged in USPS mail operations; any tribal or private sector employment within any Indian reservation in the State; the enforcement of the field sanitation standard, 29 CFR 1928.110, and the enforcement of the temporary labor camps standard, 29 CFR 1910.142, with respect to any agricultural establishment where employees are engaged in "agricultural employment" within the meaning of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1802(3), regardless of the number of employees, including employees engaged in hand packing of produce into containers, whether done on the ground, on a moving machine, or in a temporary packing shed, except that Minnesota retains enforcement responsibility over agricultural temporary labor camps for employees engaged in egg, poultry, or red meat production, or the post-harvest processing of agricultural or horticultural commodities.

(c) Minnesota is required to maintain a State program which is at least as effective as operations under the Federal program; to submit plan supplements in accordance with 29 CFR part 1953; to allocate sufficient safety and health enforcement staff to meet the benchmarks for State staffing established by the U.S. Department of Labor, or any

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revisions to those benchmarks; and, to furnish such reports in such form as the Assistant Secretary may from time to time require.

[50 FR 30832, July 30, 1985, as amended at 62 FR 2561, Jan. 17, 1997; 65 FR 36622, June 9, 2000]

§ 1952.205 Level of Federal enforcement.

(a) As a result of the Assistant Secretary's determination granting final approval to the Minnesota plan under section 18(e) of the Act, effective July 30, 1985, occupational safety and health standards which have been promulgated under section 6 of the Act do not apply with respect to issues covered under the Minnesota plan. This determination also relinquishes concurrent Federal OSHA authority to issue citations for violations of such standards under sections 5(a)(2) and 9 of the Act; to conduct inspections and investigations under section 8 (except those necessary to conduct evaluation of the plan under section 18(f) and other inspections, investigations, or proceedings necessary to carry out Federal responsibilities not specifically preempted by section 18(e)); to conduct enforcement proceedings in contested cases under section 10; to institute proceedings to correct imminent dangers under section 13; and to propose civil penalties or initiate criminal proceedings for violations of the Federal Act under section 17. The Assistant Secretary retains jurisdiction under the above provisions in any proceeding commenced under section 9 or 10 before the effective date of the 18(e) determination.

(b)(1) In accordance with section 18(e), final approval relinquishes Federal OSHA authority only with regard to occupational safety and health issues covered by the Minnesota plan. OSHA retains full authority over issues which are not subject to State enforcement under the plan. Thus, Federal OSHA retains its authority relative to safety and health in private sector offshore maritime activities and will continue to enforce all provisions of the Act, rules or orders, and all Federal standards, current or future, specifically directed to maritime employment